

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

---

JOHN HIGGINS,

Plaintiff,

-vs.-

Case No.: 06-cv-689  
(GLS-DRH)

CONSOLIDATED RAIL CORPORATION  
and CSX CORPORATION,  
Defendants.

---

**DEFENDANTS' OMNIBUS MOTION IN LIMINE**

AND NOW, come the Defendants, CSX CORPORATION and CONSOLIDATED RAIL CORPORATION, (hereinafter "Defendants"), by and through its attorneys and moves this court, *in limine*, prior to the empanelment of a jury herein, to enter an Order precluding Plaintiff's counsel from engaging in commentary and/or argument before the jury or otherwise eliciting testimony, directly or indirectly, concerning the following:

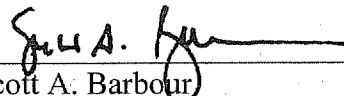
1. Defendants move this Honorable Court to enter the attached Order based on the legal arguments contained in Defendants' Memorandum of Law in Support of its Omnibus Motion *in limine*. Defendants incorporate its Memorandum of Law as if the same were set forth at length herein.

**WHEREFORE**, Defendants respectfully request that this Honorable Court instruct the Plaintiff and his counsel not to mention, refer to, interrogate concerning, or attempt to convey to the jury in any manner, either directly or indirectly, reference to the above enumerated issues, and further instruct the Plaintiff and his counsel not to make any reference to the fact that this Motion has been filed and granted and to warrant and caution each and every one of his witnesses to strictly follow the same instructions.

DATED: January 4, 2010

McNAMEE, LOCHNER, TITUS  
& WILLIAMS, P.C.

By:

  
\_\_\_\_\_  
Scott A. Barbour  
677 Broadway  
P.O. Box 459  
Albany, New York 12201-0459  
(518) 447-3213

BURNS, WHITE & HICKTON  
Four Northshore Center  
106 Isabella Street  
Pittsburgh, Pennsylvania 15212

Attorneys for Defendants

TO: John Higgins  
Plaintiff  
P.O. Box 354  
Bearsville, New York 12409